



VIRGINIA REAL ESTATE BOARD

VREB *SPEAKING*

www.dpor.virginia.gov

Fall 2007

Message From the Chair



R. Schaefer Oglesby

I hope that everyone had a good and relaxing summer. As always, I try to address issues that we encounter with Real Estate Board disciplinary cases, and this column will address challenges associated with being a "Broker for Hire."

A "Broker for Hire" can be defined as a person, or a group of people, who establish a real estate business without a broker's license and then recruit a licensed broker who agrees to be the "principal broker" for the company for a fee.

In the "Broker for Hire" situation, the licensed salespersons hire a broker even though the salespersons continue to own and manage the company. The broker is frequently absent and unaware of what is happening in the office. The challenge with this is that when something goes wrong, the principal broker is held responsible and may face stiff fines and license revocation.

One broker in this situation stated, "I didn't have anything to do with running the business. The salesperson (owner) did all that. I just had my license on the wall so they could operate."

A related problem with this structure is that the salespersons who are the owners often are listed as corporate officers for the brokerage business on the State Corporation Commission website.

The Board has, in the past, cross-referenced salesperson licensees with brokerage businesses' corporate officers and initiated disciplinary action against firms that were found in violation. Remember, you cannot be a corporate officer in the firm for which you work if you do not hold a broker's license. An individual with a salesperson's license may own a real estate company but may NOT be an officer of the company.

As always, I welcome any questions that you may have.

Until next time,

Schaefer

NOTE FROM THE EDITOR:

Congratulations to Chairman Oglesby on his election as ARELLO District 2 Vice President! District 2 includes most of the southern states, the Bahamas, Jamaica, Puerto Rico and the Virgin Islands. Mr. Oglesby will serve a one-year term beginning in September 2007. His duties will include ensuring that District 2 operations meet ARELLO's objectives.

Virginia Real Estate Board
Perimeter Center, Suite 400
9960 Mayland Drive
Richmond, VA 23233
804-367-8526

Timothy M. Kaine
Governor

Patrick O. Gottschalk
Secretary, Commerce & Trade

INSIDE THIS ISSUE:

Board Members & Staff	2
Board Contact Information	2
DPOR & the Board Have Moved	3
Fair Housing	3
Disciplinary Actions	4-5
Continuing Education Update	6-7
Broker Price Opinions	7

2007 Meeting Dates

All meetings are held on the 2nd Floor of the Perimeter Center, at the address above.

September 20, 2007
November 8, 2007

BOARD MEMBERS

R. Schaefer Oglesby, Chair
Lynchburg
Licensee Member
Four-year terms ends on 6/30/09

Byrl P. Taylor, Vice-Chair
White Stone
Licensee Member
Four-year term ends on 6/30/11

Florence Daniels
Alexandria
Licensee Member
Four-year term ends on 6/30/10

Nathaniel Brown
Charlottesville
Citizen Member
Unexpired term ends on 6/30/08

Judith L. Childress
Martinsville
Licensee Member
Four-year term ends on 6/30/08

Marjorie Clark
Richmond
Citizen Member
Four-year term ends on 6/30/10

Carol F. Clarke
Charlottesville
Licensee Member
Four-year term ends on 6/30/08

Miles B. Leon
Norfolk
Licensee Member
Four-year term ends on 6/30/08

Scott M. Gaeser
Manakin Sabot
Licensee Member
Four-year term ends on 6/30/10

DPOR Staff

Jay DeBoer, Director

David Ashe, Chief Deputy Director

Karen O'Neal, Deputy Director
Licensing & Regulation Division

Nick Christner, Deputy Director
Compliance & Investigation Division

Steven Arthur, Deputy Director
Administration & Finance Division

Lizbeth Hayes, Director
Fair Housing Office

**Real Estate Board Staff**

Christine Martine
Executive Director

Tom Perry
Property Registration Administrator

Kevin Hoeft
Education Administrator

Maryanne Woo
Office Manager

Emily Trent
Administrative Assistant

Board Contact Information

Executive Director - 804-367-8552
Licensing Section - 804-367-8526
Education Section - 804-367-2406
Property Registration Section - 804-367-8510
Fax Number - 804-527-4299
E-mail - REBoard@dpor.virginia.gov
Web - www.dpor.virginia.gov
DPOR Main Number - 804-367-8500
Complaints Section - 804-367-8504

DPOR and the Real Estate Board Have Moved!

By Jay W. DeBoer, DPOR Director



After 24 years in the 3600 Centre on West Broad Street in Richmond, the Department of Professional and Occupational Regulation (DPOR) and the Virginia Real Estate Board (the Board) moved on August 10, 2007, to the Fourth Floor of the Perimeter Center in the Deep Run Business Park in Henrico County.

DPOR and the Board have co-located to the Perimeter Center with several other state agencies including the Board of Accountancy, the Department of Conservation and Recreation's state parks reservation division, the Department of Health's Office of Licensure and Certification, the Department of Health Professions, and the Department of Rehabilitative Services' Disability Determination Services. DPOR

leases this space from the Department of General Services in accordance with the Commonwealth's real estate management initiative.

DPOR's move involved relocating more than 170 employees, replacing all agency furniture with modular systems, donating existing furniture to other state agencies (such as Southside Virginia Community College) and to state surplus, installing a state-of-the-art electronic records management filing system, and converting to VOIP (Voice Over Internet Protocol) telephones. It is our expectation that the move will increase overall efficiencies for licensees, as well as staff and the public at large. The new address and contact information for DPOR and the Board are included on pages 1 and 2 of this newsletter.

FAIR HOUSING

Pursuant to the Freedom of Information Act (FOIA) policy of the Department of Professional and Occupational Regulation for Fair Housing case files, only complaint dismissals resulting from the Board's determination that **no reasonable cause exists** to believe that a discriminatory housing practice occurred, shall be disclosed to the public. Upon request and following completion of the Board's investigation, information derived from an investigation and any final investigative report may be made available to only the aggrieved person(s) and the respondent(s). Written conciliation agreements shall be made public **unless** the complainant and the respondent agree in writing that the agreement is to remain confidential and the Board determines that disclosure is not required to further the purposes of the Fair Housing Law. Case names can be obtained from the Board minutes located on the Townhall website.

The Board made a finding of reasonable cause or approved conciliation agreements for the following case at its May and July 2007 meetings:

<u>Action</u>	<u>Case No.</u>	<u>Case Name</u>
Conciliation Agreement	2007-03844	Patricia Sprouse v. Mona Watkins, Georgette Cox, Stephanie Brown, Bernie J. Grablowsky and United Property Associates, Inc.



DISCIPLINARY ACTIONS



The Real Estate Board (the Board) licenses real estate salespersons, brokers, firms, proprietary schools and prelicense instructors. If a complaint is filed against a licensee who is subject to the laws and regulations of the Board, the complaint is reviewed by the Compliance and Investigations Division (CID) of DPOR to determine if a violation of these laws or regulations may have occurred. If there is probable cause of a violation, an investigation is initiated. If the investigation reveals that one or more violations may have occurred, the licensee receives notice to appear at an informal fact-finding conference (IFF) to address these alleged violations.

In some cases the licensee may be offered a pre-IFF Consent Order. A Consent Order is an agreement between the licensee and the Board consisting of specific violations and sanctions. Pre-IFF Consent Orders eliminate the time and expense associated with conducting an IFF.

If an IFF is held, a recommendation from the IFF hearing officer consisting of violations and proposed sanctions is submitted to the Board for consideration at its next meeting. The Board can take the following disciplinary actions against a licensee: assess a monetary penalty; suspend or revoke a license; place an individual on probation; require additional education; or deny renewal. A licensee can continue to practice throughout the disciplinary process until the Board either revokes or suspends his license.

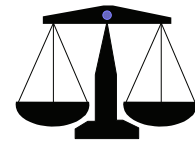
The public can view the Board's Final Orders and Consent Orders on the DPOR website at www.dpor.virginia.gov. Click on "License Lookup." Then click on "Search Disciplinary Actions Occurring since April 1, 2002." A search page will appear with directions on how to search for Board disciplinary actions against its licensees.

The following cases are disciplinary actions rendered by the Board in May and July of 2007:

<u>Case No.</u>	<u>Licensee</u>	<u>Violation</u>
2004-02553	Joseph Clark Reger	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$500 plus Probation until 4 hours of CE completed
2004-02552	Robert Northern	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$400
2007-02207	Peter B. Crouch	18 VAC 135-20-330 - Principal & Supervising Broker's Responsibility for Acts of Licensees & Employees Fined \$250 plus \$150 Board costs
2007-00544	John A. Sears	18 VAC 135-20-260 - Unworthiness & Incompetence § 54.1-2106.1.A - Firm License Required Fined \$2000, \$150 Board Costs, License revoked
2006-00410	Israel Rosa	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-180 - Maintenance/management escrow account Fined \$4500, \$150 Board Costs
2006-03117	Israel Rosa	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-180 - Maintenance/management escrow account \$150 Board Costs, License Revoked
2007-01171	Ronil Enrique Rosa	18 VAC 135-20-180 - Maintenance/management escrow account 18 VAV 135-20-300 - Misrepresentation/Omission Fined \$1500, \$150 Board Costs



DISCIPLINARY ACTIONS (Cont.)



<u>Case No.</u>	<u>Licensee</u>	<u>Violation</u>
2007-02147	Ronil Enrique Rosa	18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, License Revoked
2006-01842	Pamela A. Nonemaker	§ 54.1-2131.A.4 - Failure to Exercise Ordinary Care Fined \$100
2006-03094	Nadeem Pasha Malik	18 VAC 135-20-210 - Disclosure of Interest Fined \$100, Board Costs \$350
2007-00136	John Gregory Holmes	§ 54.1-2132.A.4 - Failure to Exercise Ordinary Care Fined \$300, \$150 Board Costs
2007-00892	Maris Vernon Kerns, III	18 VAC 135-20-310 - Improper Delivery of Instruments Fined \$350, \$150 Board Costs, 2 Hours Education
2006-02127	Monica Meier Lobo	18 VAC 135-20-310 - Improper Delivery of Instruments Fined \$250
2006-05478	Paul George Bedewi	18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, 3 Years Probation, 8 Hours Education
2007-01065	Mel M. Overman	§ 54.1-2138.A - Failure to Disclose Brokerage Relationship Fined \$1000, \$150 Board Costs, 8 Hours Education
2006-05436	Michael Wayne Harding	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1000, \$150 Board Costs, 3 Years Probation
2007-00743	Michael Stuart Shannon	18 VAC 135-20-310 - Improper Delivery of Instruments Fined \$450, \$150 Board Costs
2007-02116	Vicente Sabino Carbajal	§ 54.1-2132.A.4 - Failure to Exercise Ordinary Care 18 VAC 135-20-310 - Improper Delivery of Instruments Fined \$1100, Board Costs \$150, 4 Hours Education
2006-04102	Ashok Bhagi	18 VAC 135-20-280 - Improper Brokerage Commission Fined \$2500, \$150 Board Costs, 6 Month License Suspension & Prohibition from applying for a New License, 16 Hours Education
2007-02679	Edson C. Reid	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$700, \$150 Board Costs
2006-05558	Benjamin H. Harmon	18 VAC 135-20-220 - Failure to Disclose Brokerage Relationship Fined \$500, \$150 Board Costs, 8 Hours Education
2006-01291	John Hottell Ince	18 VAC 135-20-180 - Maintenance/management escrow account Fined \$900, License Probation until complete 3 Hours of Escrow Account Education
2007-01552	Mary Anne Moyers	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1000, Board Costs \$150

Real Estate Continuing Education Update

By Judith Childress, Education Committee Chair

The General Assembly has changed or increased the continuing education requirement for Board licensees during the past few years, so it is important that the Board communicate these changes clearly and often.

The Board's continuing education requirements are different for the following groups: 1) Post License Education for New Salespersons; 2) Continuing Education for Salespersons; and 3) Continuing Education for Brokers.

It is important to note that Post License Education and Continuing Education are two completely different types of Board-approved education. Courses approved as Post License education **WILL NOT** be accepted as Continuing Education and vice versa.

Post License Education for New Salespersons

All New Salesperson licensees (both active and inactive), are required to complete 30 hours of Post License Education within their first two-year license period to renew their license. Each New Salesperson must select one of the following Post License Education Practice Tracks: 1) Residential Real Estate; 2) Commercial Real Estate; or 3) Property Management. Each Practice Track has Mandatory and Elective Course Topics.

A New Salesperson selects his/her Practice Track by taking an approved Mandatory Course within that Practice Track as his/her first Mandatory Post License course.

New Salespersons who select the Residential Real Estate Practice Track must complete 15 Mandatory hours consisting of five three-hour courses in the following topics: 1) Agency Law; 2) Fair Housing; 3) Real Estate Law; 4) Offer to Purchase; and 5) Ethics & Standards of Conduct. The other 15 hours of Post License Education can be in Mandatory or Elective topics.

New Salespersons who select the Commercial



Real Estate Practice Track must complete 9 Mandatory hours consisting of three three-hour courses in the following topics: 1) Contract Writing, Customer Deposits, Agency; 2) Listing Property, Leasing Property, Current Issues and Trends; and 3) Property Owners and Condominium Association Law, Landlord-Tenant Law, Regulations, ADA. The other 21 hours of Post License Education can be in either Mandatory or Elective topics.

New Salespersons who select the Property Management Track must complete 20 Mandatory hours consisting of five four-hour courses in the following topics: 1) VA Landlord/Tenant Act & Fair Housing; 2) Regulations & Law, Escrow Management, Ethics; 3) Appraisals, Structures & Construction, USBC; 4) Contract Writing & Agency; and 5) Risk Management. The other ten hours of Post License Education can be in either Mandatory or Elective topics.

Effective July 1, 2008, all New Salespersons who receive their license on or after July 1, 2008, must complete the 30-hour Post License Education requirement **within ONE year of being licensed**. If the New Salesperson fails to do this, then the Board will be required to place the license on Inactive status until the education requirement is met and an activation fee is paid.

Continuing Education for Salespersons

All other Active Salespersons must complete 16 hours of Continuing Education within each two-year licensing term. These 16 hours must include a minimum of three hours in Ethics and Standards of Conduct, two hours of Fair Housing, one hour of Legal Updates, one hour of Real Estate Agency, and one hour of Real Estate Contracts. The other eight hours of Continuing Education can be in any of the above required subjects or in elective Real Estate Related Subjects.

It is important to note that for licenses that expire on or after July 1, 2007, the Ethics and Standards of Conduct Continuing Education requirement for Salespersons was changed from one hour to three hours. (Article Continued on Page 7).

Drawing the Line between Broker Price Opinions and Appraisals

By Diane Quigley, Member, Virginia Real Estate Appraiser Board

Did you know that a licensed real estate broker or agent who performs an appraisal without having an appraiser's license may be in violation of Section 54.1-2011.A of the *Code of Virginia*? This Code Section states:

"[I]t shall be unlawful to engage in the appraisal of real estate or real property for compensation or valuable consideration in this Commonwealth without first obtaining a real estate appraiser's license in accordance with Board regulations."

Licensed real estate brokers and salespersons are exempt from this appraiser licensure requirement only in accordance with Section 54.1-2010.A.1 of the *Code of Virginia*, which states:

"The provisions of this chapter shall not apply to a real estate broker or salesperson licensed in the Commonwealth, who, in the ordinary course of business, provides a valuation or analysis of real estate for a fee; however, such person shall not hold himself out as a real estate appraiser, and

the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser."

It has come to the attention of the Real Estate Appraiser Board that some financial institutions are asking, or suggesting to borrowers to ask, for an appraisal from either a licensed appraiser or a real estate broker (in lieu of an appraiser). Brokers and salespersons can only provide a Broker Price Opinion (BPO) or Certified Market Analysis (CMA) for the purpose of soliciting a listing or other brokerage duties.

If you provide a valuation service that is not in the process of the ordinary course of business, and you are not a licensed appraiser, you may subject yourself to the risk of criminal fines and penalties as expressed in Section 54.1-111.A of the *Code of Virginia*. These violations are Class 1 Misdemeanors - punishable by a maximum \$2500 fine and 12 months in jail.

Continuing Education Update (from Page 6)

These Continuing Education requirements apply to Inactive Salesperson licensees who apply to activate their license.

Continuing Education for Brokers

Active Brokers need to complete 16 hours of Continuing Education within each two-year licensing term to renew their license. These 16 hours must include a minimum of two hours in Fair Housing, one hour of Ethics and Standards of Conduct, one hour of Legal Updates, one hour of Real Estate Agency, and one hour of Real Estate Contracts. The other ten hours of Continuing Education can be in any of the above required subjects or in elective Real Estate Related Subjects.

These Continuing Education requirements apply to Inactive Broker licensees who apply to activate their license.

Effective July 1, 2008, all Active Brokers **must complete 24 hours** of Continuing Education within the two year licensing term to renew their license.

These 24 hours must include eight hours of Broker Management and Agent Supervision, three hours of Ethics and Standards of Conduct, two hours of

Fair Housing, one hour of Legal Updates, one hour of Real Estate Agency, and one hour of Real Estate Contracts. The other eight hours of Continuing Education can be in the above required subjects or in Real Estate Related Subjects.

Limited Service Agency

All active salespersons and brokers who renew or reinstate their licenses on or after July 1, 2007, must complete, for one-time only, a two-hour course on Limited Service Agency. This two-hour course is in addition to the 30 hours of Post License Education for New Salespersons and the 16 hours of Continuing Education for Active Salespersons and Brokers.

If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in Limited Service Agency shall not be required.





COMMONWEALTH OF VIRGINIA
***Department of Professional and
Occupational Regulation***
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233

PRE-SORT
STANDARD
U.S. POSTAGE PAID
Permit No. 2005
Richmond, VA